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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/526,661

03/04/2005

Ivica Batistic

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RATNERPRESTIA
P O BOX 980
VALLEY FORGE, PA 19482-0980

EXAMINER

RODRIGUEZ, PAMELA

ART UNIT

PAPER NUMBER

3683

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

01/18/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/526,661

Applicant(s)

BATISTIC ET AL.

Examiner

Pam Rodriguez

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 8-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/04/05</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because in Figure 1 German text appears in the form of the word "Zeile". Only English terms, words, etc are permitted in application drawing figures. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because the title of the abstract should read –Abstract of the Technical Disclosure—instead of “Abstracted of the Technical Disclosure”. Correction is required. See MPEP § 608.01(b).
3. The disclosure is objected to because of the following informalities: on page 6 second full paragraph in the last line, the word “with” should be deleted, on page 7 in equation 1 and at the top of page 8 the terms a_{HL} , a_{HR} , and the corresponding slip $_{HR}$ and $_{HL}$ values are not defined in the specification, on page 8 line 4, the terms “ DVN_{HL} ” and “ DVN_{HR} ” are not defined in the specification, on page 8 line 6 the terms “vref” and “vwheel” are not defined in the specification, and on page 8 equation 2, the terms for the slip $_{HR}$ and $_{HL}$ values are also not defined in the specification.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. Claims 8-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, the parenthetical phrase “(EBV control)” renders the claim indefinite because it is unclear whether the limitations within the parentheses are part of the claimed invention. See MPEP § 2173.05(d).

Art Unit: 3683

Regarding claims 11, 13, and 14, the phrase "for example" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In line 2 of Claim 12, the term "the sum" is indefinite. It is unclear which sum applicant is referring to here.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by WO document no. 98/39187 to Schmitt et al.

Regarding Claim 8, Schmitt et al disclose a method for electronically regulating braking force distribution to the front axle and the rear axle of a motor vehicle (EBV control) having all the features of the instant invention including: wherein the rotational behavior of the vehicle wheels is determined, compared with the vehicle speed or vehicle reference speed or with the changes of these variables (such as in the case of an ABS, see page 5 lines 4-5 of the WO document, which indicates that such an ABS can be used in conjunction with the EBV control system), and evaluated to limit the slip on the rear wheel brakes by modulating the braking pressure (see page 3 line 24 – page 4 line 13), and wherein the brake force distribution is controlled in dependence on

Art Unit: 3683

sum signals obtained by addition of acceleration values determined on each individual rear wheel and slip values determined on each individual rear wheel (see page 3 line 24 – page 4 line 13 and note the acceleration values determined by the wheel speed sensors are measured for both rear wheels and thus constitute a “sum” of the measurements of both wheels used to control braking. The same logic applies for the calculated slip values, in that a slip value is calculated for each rear wheel, and thus constitutes a “sum” of the values for both wheels. In other words, since two acceleration values are measured and two slip values are obtained, then the signals indicative of these values derived from the braking system are fed into controller 30 to regulate brake force distribution, the claim limitation is met).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO document no. 98/39187 to Schmitt et al.

Regarding Claim 9, Schmitt et al do not specifically disclose that a quantity obtained by integration of the wheel acceleration on each individual wheel is used as an acceleration value.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the wheel acceleration of each rear wheel into the braking system of Schmitt et al by any means desired as long as this variable is used in the calculation of brake force distribution.

Regarding Claim 10, see the abstract of the WO document.

Regarding Claim 11, Schmitt et al do not specifically disclose that the acceleration sum signals and slip sum signals are respectively multiplied and weighted by a variable sum factor.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have weighed and calculated in some sort of variable to the sum signals of Schmitt et al as a matter of computation preference in order to more accurately account for the variations of the accelerations and slips of both rear wheels and thus ensure better overall stability to the vehicle.

Regarding Claim 12, noting Claim 11 above and using the logic of the Claim 8 rejection above and as stated in the abstract of the WO document, inherently the

Art Unit: 3683

accelerations of both rear wheels (i.e., the sum of the acceleration measurements of both rear wheels) and the slips of both rear wheels (i.e., the sum of the slip values of both rear wheels) are used to initiate EBV control.

Allowable Subject Matter

10. Claims 13-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

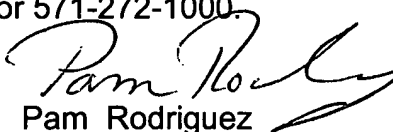
U.S. Patent No. 5,632,535 to Luckevich et al., U.S. Patent No. 5,150,950 to Arikawa et al., U.S. Patent No. 4,632,467 to Kircher et al., U.S. Patent No. 5,454,630 to Zhang, and U.S. Patent No. 5,646,849 to Walenty et al all disclose methods for regulating brake force distribution between the axles of a vehicle utilizing either rear wheel accelerations or rear wheel slip values to do so.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 571-272-7122. The examiner can normally be reached on Mondays 5:30 AM -4 PM and Tuesdays 5 AM -11 AM.

Art Unit: 3683

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim McClellan can be reached on 571-272-6786. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Pam Rodriguez
Primary Examiner
Art Unit 3683

1/9/07

PR
01/09/07